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*Woolley*

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

FILE: B-206975

DATE: April 20, 1982

MATTER OF: Trail Equipment Company

**DIGEST:**

*21558*

Where an IFB requires that a bid price include all applicable Federal, state and local taxes and duties, the burden is on the bidder, who generally is more familiar with state and local tax applicability than is the contracting officer, to ascertain tax applicability. If a bidder submits a bid on a tax-excluded basis, it is viewed as evidence of the bidder's belief, absent definite information to the contrary, that taxes may be assessed, and of his unwillingness to assume payment of such taxes.

Trail Equipment Company protests the Department of Agriculture's rejection of its bid to supply certain loading equipment under invitation for bids (IFB) No. R6-3-82-40s. The contracting officer rejected the bid as nonresponsive because a letter accompanying the bid (and therefore considered part of the bid) stated that "Washington State Tax[es] are not included in our Bid price," whereas the IFB required that the bid price include "all applicable Federal, State, and local taxes and duties." Trail contends that no Washington State taxes apply to this acquisition and therefore it was permissible to state that all such taxes are excluded. We summarily deny the protest.

The Federal Procurement Regulations (FPR) generally require that all solicitations for fixed-price contracts to be performed in the United States contain a clause requiring the bidder or offeror to include all applicable Federal, State, and local taxes and duties. FPR § 1-7.102-10 (1964 ed.). This clause places the burden on the bidder to ascertain if any taxes are applicable and to include the amount of such taxes in

its bid price. NASCO Products Company - Reconsideration, B-192116, February 16, 1979, 79-1 CPD 116. The reason is that contractors generally are more familiar with the application of state and local taxes than is the contracting officer. Nearly all of the 50 states and numerous localities impose taxes, and the applicability of state and local taxes varies from state to state and from one locality to another--some jurisdictions impose the tax on the vendor, while others impose the tax on the purchaser. (State and local governments, however, may not impose a tax on the Federal Government.) Id.

Unless otherwise specified in the IFB, the inclusion of the standard tax clause therefore constitutes notice to all bidders that bids will be evaluated on a tax-included basis. See The George Sollitt Construction Company, B-190743, September 25, 1978, 78-2 CPD 224. The submission of a bid on a tax-excluded basis is viewed evidence of the bidder's belief, absent definite information to the contrary, that taxes may be assessed, and of his unwillingness to assume payment of such taxes at his bid price. 41 Comp. Gen. 289 (1961); NASCO Products Company, B-192116, November 27, 1978, 78-2 CPD 364. Nevertheless, the bid still may be considered if the class and amount of the tax are specified elsewhere in the bid, because such information permits all bids to be evaluated on an equal basis. See 37 Comp. Gen. 864 (1958). Absent such information the bid cannot be evaluated on an equal basis with other bids, and must be considered nonresponsive. 41 Comp. Gen., supra.

Since Trail's bid stated only that "Washington State Tax[es] are not included in our Bid price," without further explanation, it was properly rejected as nonresponsive.

The protest is summarily denied.

*Milton J. Fowler*  
for Comptroller General  
of the United States